



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

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Notice of Intent/Notice of Realty Action: Proposed Resource Management Plan Amendment and an Associated Environmental Assessment for the Direct Sale of 0.66 acres in the Ely District Office, White Pine County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action and Notice of Intent.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Federal Land Policy and Management Act (FLPMA) of 1976, as amended, the Bureau of Land Management (BLM) Ely District Office, Ely, Nevada, intends to prepare a Resource Management Plan (RMP) amendment (RMPA), with an associated Environmental Assessment (EA), to the 2008 Ely District Record of Decision and Approved RMP. The proposed RMPA would evaluate whether the subject parcel of public land meets the disposal criteria described in Section 203 of the FLPMA, as amended, and allow the direct sale (without competition) of 0.66 acres of BLM managed public land to Nina Higgs, Trustee for Shirley Schena, if the parcel is determined to meet the disposal criteria. The purpose of the sale would be to resolve an inadvertent trespass and the EA would analyze the environmental effects of the direct sale of the land identified for disposal. The sale would be for no less than the appraised fair market value of \$10,000. The sale would be subject to the applicable provisions of Section 203 of FLPMA and the BLM land sale regulations. Section 203 of FLPMA states that tracts of public land may be sold because of land use planning required under Section 202 of FLPMA; the subject parcel was not previously identified for disposal in the RMP, therefore the BLM must amend the RMP to allow the proposed sale to proceed. This

notice serves to notify the public of the BLM's proposed realty action and initiates the public scoping process to solicit public comments on anticipated issues and planning criteria.

DATES: Interested parties may submit written comments regarding the RMPA planning criteria and proposed land sale during the 45-day scoping and comment period initiated by publication of this notice in the *Federal Register* and ending on **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. All timely comments will be considered during analysis of the RMPA and land sale proposal. Interested parties will have the following additional opportunities to participate in this process:

Interested parties will be notified when the Draft RMPA, EA, and unsigned Finding of No Significant Impact (FONSI) are ready for review and will be provided another 30-day comment period. Upon review of comments to the Draft RMPA, EA, and unsigned FONSI, a Proposed RMPA, EA, and signed FONSI will be completed. Interested parties will be notified again when the Proposed RMPA, EA, and signed FONSI are ready for review which will initiate three, separate external engagement opportunities. First, interested parties will be provided a 30-day protest period, subject to 43 CFR 1610.5-2, on the Proposed RMPA to the BLM Nevada State Director. The BLM Nevada State Director will review all protests and must render land use planning decisions, which shall be the final decisions for the Department of the Interior (43 CFR 1610.5-2(b)). Second, the notification will also begin a separate, concurrent 60-day Governor's consistency review of the Proposed RMPA (43 CFR 1610.3-2(e)). The BLM Nevada State Director may negotiate a shorter Governor's consistency review period. The BLM Nevada State Director will review any inconsistencies with state plans, policies, or programs raised by the Governor and accept or reject recommendations proposed to resolve the inconsistencies. Any rejection of the recommendations will further initiate a 30-day

appeal period for the Governor on the BLM Nevada State Director's rejection of the recommendations. Third, the notification of the Proposed RMPA, EA, and signed FONSI will also begin a separate, concurrent 30-day protest period subject to MS2711.4(d) on the land sale decision. The BLM Nevada State Director will review all protests and may sustain, vacate, or modify the Proposed RMPA and land sale, in whole or in part. In the absence of any protests, the BLM will develop the approved RMPA and Decision Record, which will document the final determination of the Department of the Interior for the land sale. In addition to publication in the *Federal Register*, the BLM will publish this notice in the *Ely Times* newspaper once a week for three consecutive weeks. Any other subsequent notices related to the RMPA and land sale may also be published in the *Ely Times* newspaper.

ADDRESSES: Comments concerning the realty action and issues and planning criteria related to the RMPA, EA, and direct sale may be submitted by mail to: BLM, Bristlecone Field Office, 702 North Industrial Way, Ely, Nevada 89301, ATTN: Jared Bybee, Field Manager.

FOR FURTHER INFORMATION CONTACT: Nicole Cummings, Realty Specialist, Ely District Office, at 775-289-1809, or by email at ncummings@blm.gov; or Jared Bybee, Field Manager, Bristlecone Field Office, at 775-289-1847, or by email at jbybee@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours. Project information, documents, and associated maps will be available for review during associated public comment and review periods during business hours, Monday through Friday, at the Bristlecone Field Office, except during Federally recognized holidays. Project information will also be available on the BLM's e-Planning website: <https://go.usa.gov/xMDeX>.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM Ely District Office, Ely, Nevada, proposes to segregate the identified public land, amend the relevant RMP, and prepare an associated EA that proposes to offer the land for direct sale to resolve the issue of an inadvertent trespass. The BLM will examine the following described public lands located in White Pine County, Nevada, for disposal suitability under the authority of Sections 202 and 203 of FLPMA:

Mount Diablo Meridian, Nevada

T. 14 N., R. 70 E.,

sec. 19, lot 20.

The area described contains 0.66 acres, according to the official plats of the said land, on file with the BLM.

Upon publication of this Notice in the Federal Register, the public land described above will be segregated from all forms of appropriation under the public land laws, including the mining laws, except for the sale provisions of the FLPMA. The segregation will terminate upon (1) issuance of a conveyance document; (2) publication in the Federal Register terminating the segregation; or (3) two years from publication of this notice, unless extended by the BLM Nevada State Director in accordance with 43 CFR 2711.1-2(d). Until completion of the sale, the BLM will no longer accept land use applications affecting the identified public land in accordance with 43 CFR 2807.15.

The BLM may sell a tract of public land because of approved land use planning if the sale of the tract meets the disposal criteria. The 2008 Ely District Record of Decision and Approved RMP does not identify the 0.66 acres of public land in question as suitable for disposal. Therefore, to dispose of the tract, the BLM must amend the RMP to meet the requirements of FLPMA Section 203 through land use planning. If authorized, the underlying decision will amend the 2008 Ely District RMP, establishing that “such tract, because of its location or other characteristics, is difficult and uneconomic to manage as

part of the public lands and is not suitable for management by another Federal department or agency.”

The BLM will analyze the parcel and develop an EA to evaluate the environmental effects of the proposed RMPA and the sale criteria under FLPMA Section 203(a)(3) and 43 CFR 2710.0-3(a)(3) to ensure the disposal of the tract will serve important public objectives, including but not limited to relieving BLM authority for a parcel of public land that, because of its location or other characteristics, is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency. After the BLM has analyzed public scoping comments and prepared the analysis, the EA will be available for a 30-day protest period.

The parcel being considered for direct sale is not required for any other Federal purpose. Regulations contained in 43 CFR 2710.0-6(c)(3)(iii) and 2711.3-3(a)(5) make allowances for direct sales to resolve inadvertent unauthorized use or occupancy of public land. The BLM will consider selling this parcel if it is determined that the public interest would best be served by selling the 0.66-acre parcel to Nina Higgs, Trustee for Shirley Schena, for the fair market value of at least \$10,000 to resolve the inadvertent trespass and ensure the federal government receives fair compensation for the sale of the parcel. The BLM has determined the parcel is not an access point for recreation in accordance with Secretary's Order 3373, *Evaluating Public Access in Bureau of Land Management Public Land Disposals and Exchanges*. Disposal of this tract will have no anticipated impacts on recreational access to adjacent tracts of publicly accessible lands.

The conveyance document, if issued, will contain the following reservations, excepting and reserving to the United States:

- 1) A right-of way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945);

2) All the mineral deposits in the land so patented pursuant to the Act of October 21, 1976 (43 U.S.C. 1719), including, without limitation, substances subject to disposition under the general mining laws, the general mineral leasing laws, the Materials Act and the Geothermal Steam Act, and to it, its permittees, licensees, lessees, and mining claimants, the right to prospect for, mine, and remove the minerals owned by the United States under applicable law and such regulations as the Secretary of the Interior may prescribe. This reservation includes necessary access and exit rights and the right to conduct all necessary and incidental activities including, without limitation, all drilling, underground, open pit or surface mining operations, storage, and transportation facilities deemed reasonably necessary.

Unless otherwise provided by separate agreement with the surface owner, mining claimants, permittees, licensees, and lessees of the United States shall reclaim disturbed areas to the extent prescribed by regulations issued by the Secretary of the Interior.

All causes of action brought to enforce the rights of the surface owner under the regulations above referred to shall be instituted against mining claimants, permittees, licensees, and lessees of the United States; and the United States shall not be liable for the acts or omissions of its mining claimants, permittees, licensees, and lessees.

3) An appropriate indemnification clause protecting the United States from claims arising out of the patentee's use, occupancy, or occupation on the patented lands.

The conveyance document, if issued, will be subject to all valid existing rights. The BLM will publish this notice in the *Ely Times* newspaper once a week for three consecutive weeks. Comments will be accepted as discussed in the ADDRESSES section above.

Any adverse comments regarding the sale will be reviewed by the BLM Nevada State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action in response to such comments. In the absence

of comments, this realty action will become the final determination of the Department of the Interior.

This document also announces the beginning of the scoping process and seeks public input on preliminary issues and planning criteria. The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the planning process. The following preliminary issues and planning criteria for the plan amendment have been identified by BLM personnel:

Preliminary Issues – 1) What impacts would the proposed sale have on resources potentially eligible for the National Register of Historic Places; 2) How would lands and realty be impacted or impact the proposed sale; and 3) What impacts would the proposed sale have on fish and wildlife, special status species, and migratory birds and their habitat? *Preliminary Planning Criteria* – 1) The Proposed RMP Amendment and associated EA will be in compliance with the FLPMA and all other applicable laws, regulations and policies; 2) the Proposed RMP Amendment will be in compliance with 43 CFR part 2711.3-3; 3) Impacts of the proposed direct land sale and RMP Amendment will be analyzed in an EA, in accordance with 43 CFR part 1500 and 43 CFR part 1600; 4) the EA and RMP Amendment will be developed in a manner consistent as possible with plans and policies of adjacent local, state, Tribal, and Federal agencies, within the parameters set by Federal laws, regulations, and policies; and 5) All data and graphic material in this plan amendment will be displayed electronically, using Geographic Information System (GIS) format. All applicable BLM data standards will be followed.

The BLM will evaluate identified issues to be addressed in the RMP Amendment and will place them into one of three categories: 1) Issues to be resolved in the plan amendment; 2) Issues to be resolved through policy or administrative action; or 3) Issues beyond the scope of this plan amendment.

The BLM will provide an explanation in the Draft /Preliminary EA as to why an issue was placed in Category Two or Three. The BLM will use an interdisciplinary approach to develop the RMPA and EA and consider the variety of resource issues and concerns identified. Additionally, the BLM or the Tribes can initiate, at any time during this process, consultation on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration and will be analyzed in the EA.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment -- including your personal identifying information -- may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 CFR subpart 1500; 43 CFR subpart 1600; 43 CFR 2710; 43 CFR 2711).

Robbie McAboy,

District Manager,

Ely District Office.

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